

decree of this court, upon a creditor's bill, for the payment of his debts, and that William Emory became the purchaser thereof; which sale was duly reported to the court in a few days thereafter, and was finally ratified and confirmed on the 20th of the succeeding month of June. The land was sold for \$24 52 per acre, and, according to the report of the trustee, contained five hundred and sixty-six acres; the purchase money amounting to \$13,878 32, and the terms of sale were fully complied with by the purchaser.

It also appears, that prior to the sale, the trustee had caused the lands to be surveyed by the county surveyor, by which they were ascertained to contain the number of acres mentioned in the report, and that the plat and certificate of this survey were exhibited to, and seen by, the bidders on the day of sale.

The proceedings likewise show that the purchase money had been paid by the purchaser, and distributed and paid over to the parties entitled, under the orders of this court, long before the present petition was filed, without any notice, or intimation to the purchaser, that an error was supposed to exist in the survey, which was, as before mentioned, exhibited by the trustee to the bidders on the day of sale.

As early as March, 1841, as appears by the report of the Auditor, and the order of the Chancellor, the residue of the proceeds of sale, amounting to \$9072 61, that sum remaining after the payment of the claims of creditors, was paid over to the guardians of Martha R. Ringgold, the present petitioner, she being as the devisee of the deceased William Ringgold entitled to such residue.

It is further shown, by an order of the Chancellor, passed on the 10th of May, 1837, that the expense incurred by the trustee, in having the lands surveyed prior to the sale, was allowed to him out of the proceeds.

Under these circumstances the present petition is filed, in which, upon the ground of a supposed mistake made in the said survey, and upon the allegation that the lands contained a greater number of acres than had been paid for, the court was asked to order a resurvey, and that the purchaser might, in the event of an excess, be compelled to pay therefor.